CHAPTER 3

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NATURAL LAW AND MODERN META-ETHICS

A Guided Tour

1. INTRODUCTION

It is no longer news that natural law theory has undergone a revival in the past three decades or so, largely, but not exclusively, in consequence of the work of Germain Grisez, John Finnis, and Joseph Boyle. Their work is often referred to as the “New Natural Law Theory,” for reasons I will shortly discuss. Despite much criticism, both within and without the natural law tradition, their work has made lasting contributions to contemporary moral philosophy.

This is most clear in the areas of normative ethics and applied ethics. In the former area, the new natural lawyers have mounted sustained, and influential attacks on consequentialism, and have also deepened our understanding of Kant’s relationship to the classical tradition of moral philosophy extending back to Aquinas, Aristotle, and Plato (see Grisez, 1978, 21-72; Finnis, 1991; 1983a). More positively, the new natural lawyers have articulated, not just first principles, but intermediate principles, so-called modes of responsibility, from which more particular conclusions may be derived. This has greatly aided our understanding of the overall structure of practical rationality (Finnis, 1983a; 1983b).

It has also paid obvious dividends in applied ethics, which has been a major focus of the new natural law. Grisez’s monumental work Difficult Moral Questions is one example of the success of the new theory in providing practical guidance on particular issues (1998). This is not to deny that many of the particular prescriptions and prohibitions derived within the new theory have been subject to criticism. But this has generally been good for the field of applied ethics, which has not always been known for rigorous philosophical argumentation and disputation.

With one glaring exception, somewhat less attention has been paid to the contributions the new natural law theory has made, or is capable of making, to various issues of meta-ethics. The exception is, of course, precisely that issue which, to some, justifies the adjective “new” when discussing the work of Grisez et al., namely, the steadfast refusal of its proponents to derive normative claims from...
theoretical claims about human nature. By contrast, a willingness to flout Hume’s injunction against deriving ‘ought’ from ‘is’ has been considered the “gold standard” for natural law theory by some.

I think that the new natural law theory is on sound footing in its adherence to Hume’s injunction, but, although I shall briefly discuss the naturalistic fallacy, it is not the main focus of this paper. For I think that on many other meta-ethical questions discussed in the last thirty years, the new natural law theory has much to offer.

In what follows, I shall first briefly sketch the contours of the new theory, and indicate why I think its Humeanism is beneficial. I shall then outline four further areas of meta-ethical inquiry and difficulty, and show how the new theory delivers plausible solutions, answers, and analyses in these areas, by contrast with other views.

2. GOODS BASED NATURAL LAW

The new natural law theory is grounded in a view about basic human goods and our apprehension of them. All action is understood on this theory to be action for the sake of some good or goods, but not all goods may be said to be basic. Some, such as money, or medicine, are clearly instrumental to the achievement of other goods. But the chain of explanation or justification for action cannot proceed to infinity: some goods must be pursued not for the sake of some other good, but for their own sake. The new theory identifies these goods, more or less, as life and health, knowledge and aesthetic experience, work and play, friendship and social harmony, personal integrity in its various aspects, and harmony with whatever source of transcendent meaning there may or may not be. Recently, the new theorists have identified marriage as a basic good different from the rest (see especially Grisez, 1994, Chapter 9).

All these goods are understood to be aspects of human well-being in a basic sense: human beings just are better off as knowing than as ignorant, as able to play creatively than as stuck in grinding routines, and so on. No one good comprises all aspects of human well-being, nor is there an objective hierarchy among them: they are incommensurable.

Since intelligible human action must be aimed at some good, either instrumental or basic, these goods constitute the fundamental conditions for intelligible human action, even morally wrong action. So they are, in addition to being basic, pre-moral.

Crucial, and controversial, to the new theory’s account of these basic goods is the theory’s moral epistemology. As basic, the fundamental goods are not inferred to be good from some other source of knowledge; but as good, and thus action guiding, they are not known by theoretical reason but by practical reason. This latter contrast may be understood by reflecting on two different sorts of questions. The first, questions about how the world is, are theoretical. One wants to know the answer to a question, and the rightness of one’s answer will be determined by how things actually are. By contrast, in a second form of question, one wants to know what to do, how to act. To the extent that reason provides an answer to these questions, it